

REMARKS

This paper is presented in response to the Office Action. Claim 1 is cancelled, and claims 2 and 4-6 are amended. Claims 22 and 23 were previously withdrawn by the Examiner. Claims 2-21 are now pending in view of the aforementioned cancellations.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Rejection of Claims 1, 5, and 6 under 35 U.S.C. § 102(e)

The Examiner has rejected claims 1, 5, and 6 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,834,137 to Pan et al. ("*Pan*").¹ Regarding claim 1, Applicant has cancelled that claim herein and accordingly submits that the rejection of claim 1 has thus been rendered moot and should be withdrawn. As to the rejection of the remaining claims, Applicant has amended claims 5 and 6 to depend from claim 2, which the Examiner has acknowledged is patentably distinct from the cited art. By virtue

¹ Because *Pan* is only citable under 35 U.S.C. § 102(e), Applicant does not admit that *Pan* is in fact prior art to the claimed invention but reserves the right to swear behind *Pan* if necessary to remove it as a reference.

of their dependence from claim 2, claims 5 and 6 also include all of the limitations of claim 2 and are thus also patentably distinct from the cited art. Accordingly, Applicant respectfully submits that the rejection of claims 5 and 6 should be withdrawn.

III. Rejection of Claim 4 under 35 U.S.C. § 103(a)

The Examiner has rejected claim 4 under 35 U.S.C. § 103 as being unpatentable over *Pan* in view of U.S. Patent No. 6,296,400 to Uchiyama et al. ("*Uchiyama*"). Applicant has amended claim 4 to depend from claim 2, which the Examiner has acknowledged is patentably distinct from the cited art. By virtue of its dependence from claim 2, claim 4 also includes all of the limitations of claim 2 and is thus also patentably distinct from the cited art. Accordingly, Applicant respectfully submits that the rejection of claim 4 should be withdrawn.

IV. Allowable Subject Matter

Applicant acknowledges with thanks the indications of the Examiner that claims 8-21 are allowed, and that claims 2, 3 and 7 would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims, and Applicant also wishes to thank the Examiner for the careful review of those claims.

Applicant submits the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicant agrees with the Examiner that the inventions to which claims 8-21, and amended claims 2, 3 and 7, are respectively directed are patentable over the cited references, but respectfully disagrees with the Examiner's statement of reasons for allowance as set forth in the Office Action.

Particularly, Applicant submits that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is properly determined with reference to the claim as a whole. Accordingly, Applicant does not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claim allowable and Applicant does not make any admission or concession concerning the Examiner's statements in the Office Action concerning the allowability of claims 2, 3, 7 and 8-21 in view of the cited references.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 2-21 now pending in this application is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 13th day of December, 2005.

Respectfully submitted,



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